

Office of the Secretary of Defense

§ 290.4

§ 287.6 Reports.

Each major staff element and field activity on the distribution list of this part will furnish an annual report by January 5 to the Freedom of Information Officer, Headquarters, DISA, in accordance with 32 CFR part 286.

§ 287.7 Questions.

Questions on both the substance and procedures of the Freedom of Information Act and the DISA/OMNCS implementation thereof should be addressed to the Freedom of Information Act Officer by the most expeditious means possible, including telephone calls. Freedom of Information Act requests should be addressed as follows: Defense Information Systems Agency, Attention: Code ADA, 701 S. Courthouse Road, Arlington, VA 22204-2199. Calls should be made to (703) 692-2006.

§ 287.8 "For Official Use Only" records.

The designation "For Official Use Only" will be applied to documents and other material only as authorized by 32 CFR part 286.

PART 290—DEFENSE CONTRACT AUDIT AGENCY (DCAA) FREEDOM OF INFORMATION ACT PROGRAM

Sec.

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AUTHORITY: 5 U.S.C. 552.

SOURCE: 56 FR 49685, Oct. 1, 1991, unless otherwise noted.

§ 290.1 Purpose.

This part assigns responsibilities and establishes policies and procedures for a uniform DCAA Freedom of Informa-

tion Act (FOIA) program pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. 552, as implemented by DoD Directive 5400.7¹ and DoD 5400.7-R.²

§ 290.2 Cancellation.

DCAA Regulation 5410.8, DCAA Freedom of Information Act (FOIA) Program, dated 17 May 1989; DCAAR 5200.1, Control and Protection of "For Official Use Only" Information, dated 12 November 1985; and DCAA HQ Instruction 5200.9, Physical Security of "For Official Use Only" Information within Headquarters, DCAA, dated 20 November 1974, are superseded.

§ 290.3 Applicability and scope.

This rule applies to all DCAA organizational elements, and is to govern written responses by DCAA officials for requests from members of the public for permission to examine, or to be provided with copies of DCAA records. This rule also addresses Agency policies and procedures for handling "For Official Use Only" information, including Field Detachment sensitive information.

§ 290.4 Policy.

Agency policy and procedures are those cited in DoD 5400.7-R. In addition, DCAA will:

(a) Promote public trust by making the maximum amount of information available to the public, upon request, pertaining to the operation and activities of the Agency.

(b) Allow a requester to obtain records from the Agency that are available through other public information services without invoking the FOIA.

(c) Make available, under the procedures established by DCAAP 5410.14,³ those records that are requested by a member of the general public who cites the FOIA.

(d) Answer promptly all other requests for information and records

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

²See footnote 1 to § 290.1.

³Copies may be obtained from the Defense Contract Audit Agency, Attn: CMO, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060-6219.

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under established procedures and practices.

[56 FR 49685, Oct. 1, 1991, as amended at 60 FR 35699, July 11, 1995; 64 FR 1130, Jan. 8, 1999]

§ 290.5 Definitions.

The terms used in this rule with the exception of the following are defined in DCAAP 5410.14.

(a) *Initial denial authorities (IDAs)*. The regional directors, and the Chief, Administrative Management Division, have been delegated the authority by the Director, DCAA, to make initial determinations as to the releasability of DCAA records to the public, including Defense contractors. This authority may not be redelegated.

(b) *Appellate authority*. The Assistant Director, Resources, or his designee.

(c) *Electronic data*. Electronic data are those records and information which are created, stored, and retrievable by electronic means. This does not include computer software, which is the tool by which to create, store, or retrieve electronic data.

(d) *FOIA request*. A written request for DCAA records, made by any person, including a member of the public (U.S. or foreign citizen), an organization, or a business, but not including a Federal agency or a fugitive from the law that either explicitly or implicitly invokes the FOIA, DoD 5400.7-R, DCAAR 5410.8,⁴ or regional instruction on the FOIA.

(e) *Administrative appeal*. A request by a member of the general public, made under the FOIA, asking the appellate authority to reverse an IDA decision to withhold all or part of a requested record or to deny a request for waiver or reduction of fees.

[56 FR 49685, Oct. 1, 1991, as amended at 64 FR 1130, Jan. 8, 1999]

§ 290.6 Responsibilities.

(a) *Headquarters*. (1) The Assistant Director, Resources is responsible for:

(i) The overall Agency-wide administration of the DCAA FOIA Program through the Chief, Administrative Management Division, Information and Privacy Advisor, to ensure compliance with the policies and procedures that govern the program.

(ii) Acting as the designee for the Director, DCAA, serving as the sole appellate authority for appeals to decisions of respective IDAs.

(iii) Advising the Assistant Secretary of Defense (Public Affairs) (ASD(PA)) of cases of public interest, particularly those on appeal, when the issues raised are unusual or precedent setting, matters of disagreement among DoD components, are of concern to agencies outside the Department of Defense, or may otherwise require special attention or guidance.

(iv) Advising the ASD(PA) and the Executive Officer, DCAA, concurrent with the denial of a request or an appeal, when circumstances suggest a news media interest.

(v) Conferring with the General Counsel; the Assistant Director, Operations; and the Assistant Director, Policy and Plans, on the desirability of reconsidering a final decision to deny a record, if that decision becomes a matter of special concern because it involves either an issue of public concern or DoD-wide consequences.

(vi) Accomplishing program overview, in cooperation with the General Counsel, to ensure coordinated guidance to components, and to provide the means of assessing the overall conduct of the Agency's FOIA Program.

(vii) Responding to corrective action recommended by the Special Counsel of the Merit Systems Protection Board for arbitrary or capricious withholding of records by designated employees of the Agency.

(2) The Chief, Administrative Management Division (CM) is responsible for:

(i) Establishing, issuing, and updating policies for the DCAA FOIA Program; monitoring compliance with this rule; and providing policy guidance for the FOIA program.

(ii) Resolving conflicts that may arise regarding implementation of DCAA FOIA policy.

(iii) Designating an Agency FOIA Advisor, as a single point of contact, to coordinate on matters concerning Freedom of Information Act policy.

(3) The DCAA Information and Privacy Advisor, under the supervision

⁴See footnote 3 to § 290.4(c).